

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.MC.No. 3939 of 2006()

CC.520/2000 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD
CRIME NO.719/98 OF THE TOWN NORTH POLICE STATION.
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PETITIONER:

MADHU, S/O. NARAYANAN NAIR,
KANAKKASSERY HOUSE, H.NO.3/371,
EDAVILANGU DESOM, KODUNGALLORE, THRISSUR.

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENTS:

STATE, REP. BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.
(THE SUB INSPECTOR OF POLICE,
TOWN NORTH POLICE STATION, PALAKKAD.)

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

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Dated this the 30th day of November, 2006

ORDER

The petitioner is the 3rd accused. He faces allegations, inter alia, under Secs.406 and 468 read with Sec.34 of the IPC. The petitioner was arrayed as the 3rd accused in the final report submitted by the police. He had entered appearance before the learned Magistrate. Thereafter, as the compulsions of his employment compelled him to leave India, he could not continue to appear before the learned Magistrate. The learned Magistrate has now issued a non-bailable warrant to procure the presence of the petitioner. The petitioner has come back to India. He wants to appear before the learned Magistrate. He apprehends that if he surrenders before the learned Magistrate, bail may not be granted to him. In these circumstances, it is prayed that directions under Sec.482 of the Cr.P.C. may be issued to release the petitioner on bail when he surrenders before the learned Magistrate and applies for bail. The learned counsel for the petitioner further submits that the disputes between

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the de facto complainant and the accused have already been settled. Even otherwise, he contends that there is no worthwhile allegation against the petitioner herein raised in the final report submitted by the police.

2. I have considered all the submissions made. I am certainly of opinion that it is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

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expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there. I further direct that the petitioner's prayer for composition or for discharge under Sec.239 of the Cr.P.C. must be considered expeditiously by the learned Magistrate. The mere fact that the co-accused have not been apprehended should not also stand in the way of the learned Magistrate considering the petitioner's prayer for discharge or composition expeditiously, if the same be otherwise maintainable.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge